

Illustrative Draft of Proposed Guidelines for the Treatment of Prisoners within the Commonwealth

Memorandum by the Commonwealth Secretariat

Background

For some time it had been put to the Secretariat that it would be advantageous, and very much in accord with Commonwealth practice and ideals, for the Commonwealth to have its own minimum standards or rules for the treatment of prisoners. The suggestion was that the feasibility and desirability of having a Commonwealth regime should be explored. With the Commonwealth increasingly active in the field of human rights, it was felt that such standards would be wholly consistent with the objectives of Commonwealth leaders as set out in their Harare Declaration of 1991.

The suggestion was made in full cognizance of the fact that UN Standard Minimum Rules are subscribed to by Commonwealth correctional administrations; and that in addition to having their own domestic minimum standard rules, a number of countries also subscribe to regional arrangements. It was therefore recognised from the outset that any such Commonwealth standards would in large measure reflect the provisions of existing instruments.

However, it was put to the Secretariat that the existing UN Rules, although very largely appropriate, nonetheless do present difficulties in some areas even to the most accommodating administrations. Thus it was felt that a set of Commonwealth standards (however styled) could be formulated which might meet these difficulties, and would result in a wholly achievable set of sound and humane standards fully consistent with the experience of the last thirty-six years since the UN Rules were promulgated by the General Assembly.

Working draft "guidelines"

Against this background the Secretariat invited two consultants - Mr Anthony Webb, QC (former Attorney-General of Kenya) and Mr Tom Garner (former Governor of the Hong Kong Prison Service) - to examine existing rules and standards and to produce a working draft for consideration by the Conference of Commonwealth Correctional Administrators. Before commissioning the working draft, the Secretariat had ascertained from the Crime Prevention and Control Branch of the United Nations in Geneva that they had no present plans to revisit or revise the UN Rules. The Branch was wholly supportive of the Commonwealth

re-examining the matter in the light of experience and producing a set of standards (based on the UN Rules) which might in turn lend impetus to an eventual revision of the UN Rules themselves.

Consideration by Correctional Administrators

The Webb/Garner draft rules was duly considered by the Conference of Commonwealth Correctional Administrators at their meeting in Harare, Zimbabwe, in May 1992. In the discussions a number of delegates expressed strong support for the proposed draft standards in the form of a set of Commonwealth "Rules". They were considered congruent with other sets of rules and the general view was that it should be possible for the Commonwealth as a more homogeneous group to go further with the proposed standards than perhaps other global groups.

A smaller number of delegates questioned the need for the Commonwealth to introduce another set of "Rules", as some countries were already subscribing to two sets of rules under the UN system and the Council of Europe.

In the light of the discussions it was agreed that the working draft should not be given the status of "rules", but rather that of an "illustrative draft" proposing "guidelines". It was further agreed that these might be modified by the Commonwealth Secretariat after receiving comments from delegates, the Secretariat then to submit the "illustrative draft" for consideration by Law Ministers.

It was considered desirable for Law Ministers to mandate the exercise before any redrafting was attempted. The view was expressed that while it would aid the deliberations and working of the Conference of Commonwealth Administrators for them to have a set of principles to discuss and to develop, any such document would need the endorsement of an appropriate Commonwealth ministerial meeting.

Proposal

The Meeting is not being asked to adopt the draft attached to this memorandum, nor to discuss its contents. Rather, Law Ministers are invited simply to consider the illustrative draft and to determine whether the Conference of Commonwealth Correctional Administrators should be given the political mandate to develop an

appropriate document for consideration by a future Law Ministers' Meeting.

In the event of Law Ministers giving such a mandate, it is anticipated that a drafting committee will examine the illustrative draft in the light of the proceedings and the decisions taken by Law Ministers in Mauritius and by Correctional Administrators at their meeting in Harare last year.

At Harare, Canada, New Zealand, Trinidad & Tobago and Zimbabwe all indicated a wish to serve on such a drafting committee. The Commonwealth Secretariat is in a position to provide the support services in the normal way. It would be open to any other country to join the drafting committee. The committee would submit any draft to be produced for consideration by the Conference of Commonwealth Correctional Administrators at their next meeting, in the Kingdom of Tonga in 1995.

INTRODUCTION

These **Guidelines** have their origin in proposals made by the International Penal and Penitentiary Commission between 1929 and 1933 and recommended to Governments by the Assembly of the League of Nations in 1934 and 1935. After the war the United Nations convened, in 1949, a body of international penologists to consider the rules, and their revised draft, and after approval by all the Regional Groups within the organisation, was adopted and promulgated on 30th August 1955 at the First United Nations Congress on the Prevention of Crime and Treatment of Offenders. Since then much progress has been achieved by many countries in the implementation of the rules, and at each succeeding Congress they have been the subject of discussion.

In 1968 the European Committee on Crime Problems, which had been established by the Council of Europe in

1957, was invited to adapt the United Nations rules to the needs of contemporary penal policy and to further their effective application in Europe. European Governments adopted a revised version in 1973. This Committee has reviewed the European rules every five years in the light of reports on their application and relevance from Governments and from directors of prison administrations and of contemporary developments in penal philosophy and practice. In 1987 the Council of Europe approved an improved version, taking into account all this information.

While recognition must be given to those countries that have standards and practices far in advance of most of the rules, the implementation of all of them does present difficulties to some authorities. Such factors as overcrowding or crowding (depending on presentation), the high costs of building and staffing prisons and other types of correctional facilities, particularly in the face of other demands on government financial resources in such fields as medical, educational, social welfare etc., usually leaves a correctional service having to face, with little support, fierce competition for limited funds.

Taking the Council of Europe rules as a basis, it is proposed that the Commonwealth consider the feasibility of adopting a code which can be applicable to all the countries within the Commonwealth. The attached **illustrative draft** also has had regard to the Beijing Standard Minimum Rules for the Administration of Juvenile Justice, adopted by the General Assembly of the United Nations in 1985 (**Clause 12**), and to developments in the possibility of transferring convicted foreign offenders to their home countries, particularly the Commonwealth Scheme for the Transfer of Convicted Offenders (**Clauses 99 to 107**).

In a number of the **Clauses** alternative versions are enclosed in square brackets [].

Proposed Guidelines for the Treatment of Prisoners within the Commonwealth

PREAMBLE

The purposes of these **Guidelines** are:

- (a) to establish a range of minimum standards for all those aspects of prison administration that are essential to humane conditions and the positive treatment of prisoners in modern and progressive systems;
- (b) to serve as a stimulus to prison administrations to develop policies and management style and practice based on good contemporary principles of purpose and equity;
- (c) to encourage in prison staff professional attitudes that reflect the importance of their work and to create conditions in which they can optimise their own performance to the benefit of society in general, the prisoners in their care and their own professional satisfaction;
- (d) to provide realistic basic criteria against which prison administrations and those responsible for inspecting the conditions and management of prisons can make valid judgments of performance and measure progress towards higher standards.

The **Guidelines** are not intended to describe in detail a model system. In view of the great variety of legal, social, economic and geographical conditions in different countries in the Commonwealth, it is evident that not all of the **Guidelines** are capable of application in all countries and at all times. Wherever there are difficulties or practical problems to overcome in the application of the **Guidelines**, the Commonwealth Secretariat has the machinery and the expertise available to assist with advice and the fruits of the experience of the various prison administrations within its sphere.

In these **Guidelines**, emphasis has been placed on the precepts of human dignity, the commitment of prison administrations to humane and positive treatment, the importance of staff roles and effective modern management approaches. They are set out to provide ready reference, encouragement and guidance to those who are working at all levels of prison administration.

PART I

The basic principles

1. The deprivation of liberty shall be effected in physical and psychological conditions which ensure respect for human dignity and are in conformity with these **Guidelines**.
2. The **Guidelines** shall be applied impartially. There shall be no discrimination on grounds of race,

colour, sex, language, religion, political or other opinion, national or social origin, birth, economic or other statutes. The religious beliefs and moral precepts of the group to which a prisoner belongs shall be respected.

3. The purposes of the treatment of persons in custody shall be such as to sustain their health and self-respect and, so far as the length of sentence permits, to develop their sense of responsibility and to encourage those attitudes and skills that will assist them to return to society with the best chance of leading law-abiding and self-supporting lives after their release.

4. There shall be regular inspections of penal institutions and services by qualified and experienced inspectors appointed by a competent authority. Their task shall be in particular, to monitor whether and to what extent these institutions are administered in accordance with existing laws and regulations, the objectives of the prison services and the requirements of these rules.

5. The protection of the individual rights of prisoners with special regard to the legality of the execution of detention measures shall be secured by means of a control carried out, according to national, State or Provincial rules, by a judicial authority or other duly constituted body authorised to visit the prisoners and not belonging to the prison administration. [This shall not inhibit the prison administration from conducting its own investigation].

6. 1. These **Guidelines** shall be made readily available to staff in the national languages.
2. They shall also be available to prisoners in the same languages so far as is reasonable and practicable.

PART II

The management of prison systems

Reception and registration

7. 1. No person shall be received in an institution without a valid commitment order.
2. The essential details of the commitment and reception shall immediately be recorded.
8. In every place where persons are imprisoned a complete and secure record of the following information shall be kept concerning each prisoner received:
 - (a) information concerning the identity of the prisoner;
 - (b) the reasons for commitment and the authority therefor;

- (c) the day and hour of admission and release.
9. Reception arrangements shall conform with the basic principles of the **Guidelines** and shall assist prisoners to resolve their urgent personal problems.
 10. 1. As soon as possible after reception and after a prisoner has been medically examined in accordance with **Clause 30**, a programme of treatment and training in an appropriate institution shall be prepared for each prisoner with a sentence of suitable length in preparation for ultimate release, in the light of medical and other reports and personal information, including personality, individual needs, capacity and personal situation, especially proximity to relatives, and submitted to the Director for information or approval.
 2. Such programmes shall always include reports by a medical officer and the personnel in direct charge of the prisoner concerned.
 3. Reports and information concerning prisoners shall be maintained with due regard to confidentiality on an individual basis, regularly kept up to date and only accessible to authorised persons.

The allocation and classification of prisoners

11. 1. In allocating prisoners to different institutions or regimes, due account shall be taken of their judicial and legal situation (untried or convicted prisoner, juvenile, first offender or habitual offender, short sentence or long sentence), of the special requirements of their treatment, of their medical needs, their [sex] and age [and previous history].
2. Males and females shall in principle be detained separately, although they may participate together in organised activities as part of an established treatment programme.
3. In principle, untried prisoners shall be detained separately from convicted prisoners [unless they consent to being accommodated or involved together in organised activities beneficial to them] [unless there is a demonstrable benefit to the unconvicted prisoner].
12. 1. Juveniles in institutions shall be kept separate from adults and shall be detained in a separate institution or in a separate part of an institution also holding adults.
2. The objective of training and treatment of juveniles placed in institutions is to provide care, protection, education and vocational skills, with a view to assisting them to assume socially constructive and productive roles in society.
3. Juveniles in institutions shall receive care, protection and all necessary assistance - social, educational, vocational, psychological, medical and

physical - that they may require because of their age, sex, personality and in the interest of their wholesome development.

4. Young female offenders placed in an institution deserve special attention as to their personal needs and problems. They shall by no means receive less care, protection, assistance, treatment and training than young male offenders. Their fair treatment shall be ensured.
 5. In the interest and well-being of juveniles in institutions, the parents or guardians shall have a right of access [in accordance with local visiting arrangements unless restricted by a court order].
 13. The purposes of classification or re-classification of prisoners shall be:
 - (a) to separate from others those prisoners who, by reasons of their criminal records or their personality, are likely to benefit from that or who may exercise a bad influence; and
 - (b) to assist in allocating prisoners to facilitate their treatment and social resettlement taking into account the management of different treatment regimes or the allocation of specific categories of prisoners.
 14. So far as possible separate institutions or separate sections of institutions shall be used to facilitate the management of different treatment regimes or the allocation of specific categories of prisoners.
- #### *Accommodation*
15. 1. Prisoners shall normally be lodged [during the night] in individual cells [except in cases where it is considered that there are advantages in sharing accommodation with other prisoners] [unless for medical or other sufficient reason it is [necessary] [desirable] for prisoners to be associated].
 2. Where accommodation is shared it shall be occupied by prisoners suitable to associate with others in those conditions. There shall be supervision by night, in keeping with the nature of the institution.
 16. The accommodation provided for prisoners, and in particular all sleeping accommodation, shall meet the requirements of health and hygiene, due regard being paid to climatic conditions and especially the cubic content of air, a reasonable amount of space, lighting, heating and ventilation.
 17. In all places where prisoners are required to live or work:
 - (a) windows shall be large enough to enable the prisoners, to read or work by natural light in normal conditions;
 - (b) windows shall be so constructed that they allow the entrance of fresh air except where there is an ade-

quate air conditioning system;

- (c) windows shall, with due regard to security requirements, present in their size, location and construction as normal an appearance as possible; and
- (d) artificial light shall satisfy recognised health and technical standards.

18. The sanitary installations and arrangements for access shall be adequate to enable every prisoner to comply with the needs of nature when necessary and in clean and decent conditions.

19. Adequate bathing and showering installations shall be provided so that every prisoner may be enabled and required to have a bath or shower, at a temperature suitable to the climate, as frequently as necessary for general hygiene according to season and geographical region, but at least once a week.

Wherever possible there should be free access at all reasonable times.

20. All parts of an institution shall be properly maintained and kept clean at all times.

Personal hygiene

21. Prisoners shall be required to keep their persons clean, and to this end they shall be provided with water and with such toilet articles as are necessary for health and cleanliness.

22. For reasons of health and in order that prisoners may maintain a good appearance and preserve their self-respect, facilities shall be provided for the proper care of the hair and beard, and men shall be enabled to shave regularly.

Clothing and bedding

23. 1. Prisoners who are not allowed to wear their own clothing shall be provided with an outfit of clothing suitable for the climate and adequate to keep them in good health. Such clothing shall in no manner be degrading or humiliating.

2. All clothing shall be clean and kept in proper condition. Underclothing shall be changed and washed as often as necessary for the maintenance of hygiene.

3. Whenever prisoners obtain permission to go outside the institution, they shall be allowed to wear their own clothing or other inconspicuous clothing.

4. In this **Clause** and in **Clause 24** "clothing" includes footwear.

24. On the admission of prisoners to an institution, adequate arrangements shall be made to ensure that their personal clothing is kept in good condition and fit for use.

25. Every prisoner shall be provided with a separate bed or bed-space and separate and appropriate bedding

which shall be kept in good order and changed often enough to ensure its cleanliness.

Food

26. 1. In accordance with the standards laid down by the health authorities, the administration shall provide the prisoners at the normal times with food which is suitably prepared and presented, and which satisfies in quality and quantity the standards of dietetics and modern hygiene and takes into account their age, health, the nature of their work, and so far as possible, religious or cultural requirements.

2. Drinking water shall be available to every prisoner at all times.

Medical services

27. 1. At every institution there shall be available the services of at least one qualified general medical practitioner. The medical services should be organised in close relation with the general health administration of the community or nation. They shall include wherever practicable a psychiatric service for the diagnosis and, in proper cases, the treatment of states of mental abnormality.

2. The services of a qualified dental officer shall be available to every prisoner.

3. Sick prisoners who require specialist treatment shall be transferred to specialised institutions or to civil hospitals. Where hospital facilities are provided at an institution, their equipment, furnishings and pharmaceutical supplies shall be suitable for the medical care and treatment of sick prisoners, and there shall be a staff of suitably trained officers.

28. Prisoners may not be submitted to any experiments which may result in physical or psychological injury.

29. 1. Arrangements shall be made wherever practicable for children to be born in a hospital outside the institution. However, unless special arrangements are made, there shall in penal institutions be the necessary staff and accommodation for the confinement and post-natal care of pregnant women. If a child is born in prison, this fact shall not be mentioned in the birth certificate.

2. Where infants are allowed to remain in the institution with their mothers, special provision shall be made for a nursery staffed by qualified persons, where the infants shall be placed when they are not in the care of their mothers.

30. The medical officer shall see and examine every prisoner as soon as possible after reception and thereafter as necessary, with a view particularly to the discovery of physical or mental illness and the taking of all measures necessary for medical treatment; the segregation of prisoners suspected of infectious or contagious

conditions; the noting of physical or mental defects which might impede resettlement after release; and the determination of the fitness of every prisoner to work.

31. 1. The medical officer shall have the care of the physical and mental health of the prisoners and shall see, under the conditions and with a frequency consistent with hospital standards, all sick prisoners, all who report illness or injury and any prisoner to whom attention is specially directed.
2. The medical officer shall report to the director whenever it is considered that a prisoner's physical or mental health has been or may be adversely affected by continued imprisonment or by any condition of imprisonment [or appears to constitute a risk to the welfare of the prison staff or other prisoners].
32. 1. The medical officer or a competent authority shall regularly inspect and advise the director upon:
- (a) the quantity, quality, preparation and serving of food and water;
 - (b) the hygiene and cleanliness of the institution and prisoners;
 - (c) the sanitation, heating, lighting and ventilation of the institution;
 - (d) the suitability and cleanliness of the prisoners' clothing and bedding.
2. The director shall consider the reports and advice that the medical officer submits according to **Clause 31**, paragraph 2, and paragraph 1 of this **Clause**, and, when in concurrence with the recommendations made, shall take immediate steps to give effect to those recommendations; if they are not within the director's competence or if the director does not concur with them, the director shall immediately submit a personal report and the advice of the medical officer to higher authority.
33. The medical services of the institution shall seek to detect and shall treat any physical or mental illnesses or defects which may impede a prisoner's resettlement after release. All necessary medical, surgical and psychiatric services including those available in the community shall be provided to the prisoner to that end.

Discipline and punishment

34. Discipline and order shall be maintained in the interests of safe custody, ordered community life and the [treatment] [correctional] objectives of the institution.
35. 1. No prisoner shall be employed, in the service of the institution, in any disciplinary capacity.
2. This **Clause** shall not, however, impede the proper functioning of arrangements under which specified social, educational or sports activities or

responsibilities are entrusted under supervision to prisoners who are formed into groups for the purposes of their participation in regime programmes.

36. The following shall be provided for and determined by law or by the regulation of the competent authority:
- (a) conduct constituting a disciplinary offence;
 - (b) the types and duration of punishment which may be imposed;
 - (c) the authority competent to impose such punishment;
 - (d) access to, and the authority of, the appellate process.
37. 1. No prisoner shall be punished except in accordance with the terms of such law or regulation, and never twice for the same act.
2. Reports of misconduct shall be presented promptly to the competent authority who shall decide on them without undue delay.
3. No prisoner shall be punished unless informed of the alleged offence and given a proper opportunity of presenting a defence.
4. Where necessary and practicable prisoners shall be allowed to make their defence through an interpreter.
38. Collective punishments, corporal punishment, punishment by placing in a dark cell, and all cruel, inhuman or degrading punishment shall be completely prohibited as punishments for disciplinary offences.
39. 1. Punishment by disciplinary confinement and other punishment which might have an adverse effect on the physical or mental health of the prisoner shall only be imposed if the medical officer, after examination, certifies in writing that the prisoner is fit to sustain it.
2. In no case may such punishment be contrary to, or depart from, the principles stated in **Clause 38**.
3. The medical officer [or a health care professional] shall visit daily prisoners undergoing such punishment and shall advise the director if the termination or alteration of the punishment is considered necessary on grounds of physical or mental health.

Instruments of restraint

40. The use of chains and irons shall be prohibited. Handcuffs, restraint-jackets and other body restraints shall never be applied as a punishment. They shall not be used except in the following circumstances:
- (a) if necessary, as a precaution against escape during a transfer, provided that they shall be removed

when the prisoner appears before a judicial or administrative authority unless that authority decides otherwise;

- (b) on medical grounds by direction and under the supervision of the medical officer;
- (c) by order of the director, if other methods of control fail, in order to protect a prisoner from self-injury, injury to others or to prevent serious damage to property; in such instances the director shall at once consult the medical officer and report to the higher administrative authority.

41. The patterns and manner of use of the instruments of restraint authorised in the preceding paragraph shall be decided by law or regulation. Such instruments must not be applied for any longer time than is strictly necessary.

Information to, and complaints by, prisoners

- 42. 1. Every prisoner shall on admission be provided with written information about the regulations governing the treatment of prisoners of the relevant category, the disciplinary requirements of the institution, the authorised methods of seeking information and making complaints, and all such other matters as are necessary to understand the rights and obligations of prisoners and to adapt to the life of the institution.
- 2. If a prisoner cannot understand the written information provided, this information shall be explained [orally] [in some other manner comprehensible to the prisoner].
- 43. 1. Every prisoner shall have the opportunity every day of making requests or complaints to the director of the institution or the officer authorised to act in that capacity.
- 2. A prisoner shall have the opportunity to talk to, or to make requests of or complaints to, an inspector of prisons or to any other duly constituted authority entitled to visit the prison without the director or other members of the staff being present. However, appeals against formal decisions may be restricted to the authorised procedures.
- 3. Every prisoner shall be allowed to make a request or complaint, under confidential cover, to the central prison administration, the judicial authority or other authorities.
- 4. Every request or complaint addressed or referred to a prison authority shall be promptly dealt with and replied to by this authority without undue delay.

Contact with the outside [world] [community]

- 44. 1. Prisoners shall be allowed to communicate with their families and, subject to the needs of treatment, security and good order, persons or rep-

resentatives of outside organisations and to receive visits from these persons as often as possible.

2. To encourage contact with the outside world [community] there shall be a system of prison leave consistent with the treatment objectives in Part IV of these **Guidelines**.

45. Prisoners shall be allowed to keep themselves informed regularly of the news by reading newspapers, periodicals and other publications, by radio or television transmissions, by lectures or by any similar means as authorised or controlled by the administration.

Religious and moral spiritual assistance

46. So far as practicable, prisoners shall be allowed to satisfy their religious and spiritual needs by attending the services or meetings provided in the institution and by having in their possession, or by having access to, any authorised books, literature or religious objects.

47. 1. If the institution contains a sufficient number of prisoners of the same religion, and subject to demand, a qualified representative of that religion shall be appointed and approved. [If the number of prisoners justifies it and conditions permit, the arrangement should be on a full-time basis].

2. A qualified representative appointed and approved under paragraph 1 shall be allowed to hold regular services and activities and to pay pastoral visits in private to prisoners [of his religion] at proper times.

3. Access to a qualified representative of any religion shall not be refused to any prisoner. If any prisoner should object to a visit of any religious representative, the prisoner shall be allowed to refuse it.

Retention of prisoners' property

48. 1. All money, valuables, and other effects belonging to prisoners which under the regulations of the institution they are not allowed to retain shall on admission to the institution be placed in safe custody. An inventory thereof shall be signed by the prisoner. Steps shall be taken to keep them in good condition. If it is found necessary to destroy any article, this shall be recorded and the prisoner informed.

2. On the release of the prisoner, all such articles and money shall be returned except insofar as there have been authorised withdrawals of money or the authorised sending of any such property out of the institution, or it has been found necessary on hygienic grounds to destroy any article. The prisoner shall sign a receipt for the articles and money returned.

3. As far as practicable, any money or effects received for a prisoner from outside shall be treated in the same way unless they are intended for and permitted for use during imprisonment.

4. If a prisoner brings in any medicines, the medical officer shall decide what use shall be made of them.

Notification of imprisonment, transfer, illness or death

49. 1. All prisoners shall have the right to inform their families at once of imprisonment or transfer to another institution [unless such information is restricted [for security reasons]].
2. Upon the death or serious illness of or serious injury to a prisoner, or removal to an institution for the treatment of [mental illness or abnormalities,] [mental or psychiatric illness] the director shall at once inform [the spouse, if the prisoner is married, or the nearest relative and shall in any event inform any other] [a] person previously designated by the prisoner.
3. A prisoner shall be informed at once of the death or serious illness of any near relative. In these cases and whenever circumstances allow, the prisoner should be authorised to visit this sick relative or see the deceased either under escort or alone.

Removal of prisoners

50. 1. When prisoners are being removed to or from an institution, they shall be exposed to public view as little as possible, and proper safeguards shall be adopted to protect them from insult, curiosity and publicity in any form.
2. The transport of prisoners in conveyances with inadequate ventilation or light, or in any way which would subject them to unnecessary physical hardship or indignity shall be prohibited.
3. The transport of prisoners shall be carried out at the expense of the administration and in accordance with duly authorised regulations.

PART III

Personnel [Human resource management]

51. In view of the fundamental importance of the prison staff to the proper management of institutions and the pursuit of their organisational and [treatment] [correctional] objectives, prison administrators shall give high priority to the fulfilment of the **Guidelines** concerning personnel.
52. Prison staff shall be continually encouraged through training, consultative procedures and a positive management style to aspire to humane standards, higher efficiency and a committed approach to their duties.
53. The prison administration shall regard it as an important task continually to inform public opinion of the

roles of the prison system and the work of the staff, so as to encourage public understanding of the importance of their contribution to society.

54. 1. The prison administration shall provide for the careful selection on recruitment or in subsequent appointments of all personnel. Special emphasis shall be given to their integrity, humanity, professional capacity and personal suitability for the work.
2. Personnel shall normally be appointed on a permanent basis as professional prison staff and have civil service status with security of tenure subject only to good conduct, efficiency, good physical and mental health and an adequate standard of education. Salaries shall be adequate to attract and retain suitable men and women; employment benefits and conditions of service shall be favourable in view of the exacting nature of the work.
3. Whenever it is necessary to employ part-time staff, these criteria should apply to them as far as that is appropriate.
55. 1. On recruitment or after an appropriate period of practical experience the personnel shall be given a course of training in their general and specific duties and be required to pass theoretical and practical tests unless their professional qualifications make that unnecessary.
2. During their career, all personnel shall maintain and improve their knowledge and professional capacity by attending courses of in-service training to be organised by the administration at suitable intervals.
3. Arrangements should be made for wider experience and training for personnel whose professional capacity would be improved by this.
4. The training of all personnel should include instruction in the requirements and application of these **Guidelines** and the Commonwealth Scheme for the Transfer of Convicted Offenders.
56. [All personnel shall be expected at all times so to conduct themselves and perform their duties as to influence the prisoners for good by their example and to command their respect]. [All personnel shall be expected at all times to conduct themselves and to perform their duties in a professional manner. The setting of good example in the performance of their duties will assist in the effective management of prisoners].
57. 1. So far as possible the personnel shall include a sufficient number of specialists such as psychiatrists, psychologists, social workers, teachers, trade, physical education and sports instructors.
2. These and other specialist staff shall normally be employed on a permanent basis. This shall not preclude part-time or voluntary workers when that

is appropriate and beneficial to the level of support and training they can provide.

58. 1. The prison administration shall ensure that every institution is at all times in the full charge of the director, the deputy director or other authorised official.
2. The director of an institution shall be adequately qualified for that post by character, administrative ability, suitable professional training and experience.
3. The director shall be appointed on a full-time basis and be available or accessible as required by the prison administration in its management instructions.
4. When two or more institutions are under the authority of one director, each shall be visited at frequent intervals. A responsible official shall be in charge of each of these institutions.
59. The prison administration shall introduce forms of organisation and management systems to facilitate communication between the different categories of staff in an institution with a view to ensuring co-operation between the various services, in particular, with respect to [the treatment and re-socialisation of prisoners] [correctional programmes for prisoners].
60. 1. The director, deputy, and the majority of the other personnel of the institution shall be able to speak the language of the greatest number of prisoners, or a language understood by the greatest number of them.
2. Whenever necessary and practicable the services of an interpreter shall be used.
61. 1. Arrangements shall be made to ensure at all times that a qualified and approved medical practitioner is able to attend without delay in cases of urgency.
2. In institutions not staffed by one or more full-time medical officers a part-time medical officer or authorised staff of a health service shall visit regularly.
62. The appointment of staff in institutions or parts of institutions housing prisoners of the opposite sex is to be encouraged.
63. 1. Staff of the institutions shall not use force against prisoners except in self-defence or in cases of attempted escape or active or passive physical resistance to an order based on law or regulations. Staff who have recourse to force must use no more than is strictly necessary and must report the incident immediately to the director of the institution.
2. Staff shall as appropriate be given special technical training to enable them to restrain aggressive prisoners.

3. Except in special circumstances, staff performing duties which bring them into direct contact with prisoners should not be armed. Furthermore, staff should in no circumstances be provided with arms unless they have been fully trained in their use.

PART IV

Treatment objectives and [regimes] [management]

64. Imprisonment is by the deprivation of liberty, a punishment in itself. The conditions of imprisonment and prison regimes shall not, therefore, except as incidental to justifiable segregation or the maintenance of discipline, aggravate [the suffering inherent in] this.
65. Every effort shall be made to ensure that the regimes of the institutions are designed and managed so as:
- (a) to ensure that the conditions of life are compatible with human dignity and acceptable standards in the community;
 - (b) to minimise the detrimental effects of imprisonment and the differences between prison life and life at liberty which tend to diminish the self-respect or sense of personal responsibility of prisoners;
 - (c) to sustain and strengthen those links with relatives and the outside community that will promote the best interests of prisoners and their families;
 - (d) to provide opportunities for prisoners to develop skills and aptitudes that will improve their prospects of successful resettlement after release.
66. To these ends all the remedial, educational, [moral], spiritual and other resources that are appropriate should be made available and utilised in accordance with the individual treatment needs of prisoners. Thus the regimes should include:
- (a) spiritual support and guidance and opportunities for relevant work, vocational guidance and training, education, physical education, the development of social skills, counselling, group and recreational activities;
 - (b) arrangements to ensure that these activities are organised, so far as possible, to increase contacts with and opportunities within the outside community so as to enhance the prospects for social resettlement after release;
 - (c) procedures for establishing and reviewing individual treatment and training programmes for prisoners after full consultations among the relevant staff and with individual prisoners who would be involved in these as far as is practicable;

- (d) communications systems and a management style that will encourage appropriate and positive relationships between staff and prisoners that will improve the prospects for effective and supportive regimes and [treatment] [correctional] programmes.

67. 1. Since the fulfilment of these objectives requires individualisation of treatment and, for this purpose, a flexible system of allocation, prisoners should be placed in separate institutions or units where each can receive [the appropriate treatment and training] [correctional programmes].
2. The type, size, organisation and capacity of these institutions or units should be determined essentially by the nature of the [treatment] [correctional programmes] to be provided.
3. It is necessary to ensure that prisoners are located with due regard to security and control but such measures should be the minimum compatible with safety and comprehend the special needs of the prisoner. Every effort should be made to place prisoners in institutions that are open in character or provide ample opportunities for contacts with the outside community. In the case of foreign nationals, links with people of their own nationality in the outside community are to be regarded as especially important.
68. 1. Within the regimes, prisoners shall be given the opportunity to participate in activities of the institution likely to develop their responsibility, self-reliance and to stimulate interest in their own [treatment] [programmes].
2. Efforts should be made to develop methods of encouraging co-operation with and the participation of the prisoners in their [treatment] [programmes]. To this end prisoners shall be encouraged to assume, within the limits specified in **Clause 35**, responsibilities in certain sectors of the institution's activity.
69. 1. The preparation of prisoners for release should begin as soon as possible after reception [in a penal institution]. Thus, [the treatment of] [correctional programmes for] prisoners should emphasise not their exclusion from the community but their continuing part in it. Community agencies and social workers should, therefore, be enlisted wherever possible to assist the staff of the institution in the task of social rehabilitation of the prisoners particularly maintaining and improving the relationships with their families, with other persons and with the social agencies. Steps should be taken to safeguard, to the maximum extent compatible with the law and the sentence, the rights relating to civil interests, social security rights and other social benefits of prisoners.

2. [Treatment] [correctional] programmes should include provision for prison leave which should also be granted to the greatest extent possible on medical, educational, occupational, family and other social grounds.

Work

70. 1. Prison work should be seen as a positive element in [treatment, training and institutional management] [prisoner management].
2. Prisoners under sentence may be required to work, subject to their physical and mental fitness as determined by the medical officer.
3. Sufficient work of a useful nature, or if appropriate other purposeful activities shall be provided to keep prisoners actively employed for a normal working day.
4. So far as possible the work provided shall be such as will maintain or increase the prisoner's ability to earn a normal living after release.
5. Vocational training in a useful trade shall be provided for prisoners able to profit thereby and especially for young prisoners.
6. Within the limits compatible with proper vocational selection and with the requirements of institutional administration and discipline, the prisoners shall be able to choose the type of employment in which they wish to participate.
71. 1. The organisation and methods of work in the institutions shall resemble as closely as possible those of similar work in the community so as to prepare prisoners for conditions of normal occupational life. It should thus be relevant to contemporary working standards and techniques and organised to function within modern management systems and production processes.
2. Although the pursuit of financial profit from industries in the institutions can be valuable in raising standards and improving the quality and relevance of training, the interests of the prisoners and of their treatment must not be subordinated to that purpose.
72. Work for prisoners shall be assured by the prison administration:
- (a) either on its own premises, workshops and farms; or
- (b) in co-operation with private contractors inside or outside the institution [in which case the full normal wages for such shall be paid by the persons to whom the labour is supplied, account being taken of the output of the prisoners].
73. 1. Safety and health precautions for prisoners shall be similar to those that apply to workers outside.

2. Provision shall be made to indemnify prisoners against industrial injury, including occupational disease, [on terms not less favourable than those extended by law to workers outside].
74. 1. The maximum daily and weekly working hours of the prisoners shall be fixed in conformity with local rules or custom in regard to [the employment of free workmen] [workers in the community].
2. Prisoners should have at least one rest-day a week and sufficient time for education and other activities required as part of their [treatment and training for social resettlement] [correctional programme].
 75. 1. There shall be a system of [equitable] remuneration [of the work of prisoners] [for the work performed by prisoners].
2. Under the system prisoners shall be allowed to spend at least a part of their earnings on approved articles for their own use and to allocate a part of their earnings to their family or for other approved purposes.
3. The system may also provide that a part of the earnings be set aside by the administration so as to constitute a savings fund to be handed over to the prisoner on release.

Education

76. A comprehensive education programme shall be arranged in every institution to provide opportunities for all prisoners to pursue at least some of their individual needs and aspirations. Such programmes should have as their objectives the improvement of the prospects for successful social resettlement, the morale and attitudes of prisoners and their self-respect.
77. Education should be regarded as a regime activity that attracts the same status and basic remuneration within the regime as work, provided that it takes place in normal working hours and is part of an authorised individual [treatment] [correctional] programme.
78. Special attention should be given by prison administrations to the education of young prisoners, those of foreign origin or with particular cultural or ethnic needs.
79. Specific programmes of remedial education should be arranged for prisoners with special problems such as illiteracy or innumeracy.
80. So far as practicable, the education of prisoners shall:
 - (a) be integrated with the educational system of the country so that after their release they may continue their education without difficulty;
 - (b) take place in outside educational institutions.

81. Every institution shall have a library for the use of all categories of prisoners, adequately stocked with a wide range of both recreational and instructional books and journals, and prisoners shall be encouraged to make full use of it. Wherever possible the prison library should be organised in co-operation with community library services.

Physical education, exercise, sport and recreation

82. Prison regimes shall recognise the importance to physical and mental health of properly organised activities to ensure physical fitness, adequate exercise and recreational opportunities.
83. A properly organised programme of physical education, sport and other recreational activity should be arranged within the framework and objectives of the [treatment and training regime] [correctional programmes]. To this end space, installations and equipment should be provided.
84. Prison administrators should ensure that prisoners who participate in these programmes are physically fit to do so. Special arrangements should be made, under medical direction, for remedial physical education and therapy for those prisoners who need it.
85. Every prisoner who is not employed in outdoor work, or located in an open institution, shall be allowed, if the weather permits, at least one hour of walking or suitable exercise in the open air daily, as far as possible, sheltered from inclement weather.

Pre-release preparation

86. All prisoners should have the benefit of arrangements designed to assist them in returning to society, family life and employment after release. Procedures and special courses should be devised to this end.
87. In the case of those prisoners with longer sentences, steps should be taken to ensure a gradual return to life in society. This aim may be achieved, in particular, by a pre-release [regime] [programme] organised in the same institution or in another appropriate institution, or by conditional release under some kind of supervision combined with effective social support.
88. 1. Prison administrations should work closely with the social services and agencies that assist released prisoners to re-establish themselves in society, in particular with regard to family life and employment.
2. Steps must be taken to ensure that on release prisoners are provided, as necessary, with appropriate documents and identification papers, and assisted in finding suitable homes and work to go to. They should also be provided with immediate means of subsistence, be suitably and adequately clothed having regard to the climate and season, and have sufficient means to reach their destination.

3. The approved representatives of the social agencies or services should be afforded all necessary access to the institution and to prisoners with a view to making a full contribution to the preparation for release and after-care programme of the prisoner.

PART V

Additional guidelines for special categories

89. Prison administrators should be guided by the provisions of the **Guidelines** as a whole so far as they can appropriately and in practice be applied for the benefit of those special categories of prisoners for which additional **Guidelines** are provided hereafter.

Untried prisoners

90. Without prejudice to legal rules for the protection of individual liberty or prescribing the procedure to be observed in respect of untried prisoners, these prisoners, who are presumed to be innocent until they are found guilty, shall be afforded the benefits that may derive from **Clause 89** and treated without restrictions other than those necessary for the penal procedure and the security of the institution.

91. 1. Untried prisoners shall be allowed to inform their families of their detention immediately and given all reasonable facilities for communication with family and friends and persons with whom it is in their legitimate interest to enter into contact.

2. They shall also be allowed to receive visits from them under humane conditions subject only to such restrictions and supervision as are necessary in the interests of the administration of justice and of the security and good order of the institution.

3. If an untried prisoner does not wish to inform any of these persons, the prison administration should not do so on its own initiative unless there are good overriding reasons such as, for instance, the age, state of mind or any other incapacity of the prisoner.

92. Untried prisoners shall be entitled, as soon as imprisoned, to choose a legal representative, or shall be allowed to apply for free legal aid where such aid is available and to receive visits from that legal adviser with a view to their defence and to prepare and hand to the legal adviser, and to receive, confidential instructions. On request, they shall be given all necessary facilities for their purpose. In particular, they shall be given the free assistance of an interpreter for all essential contacts with the administration and for their defence. Interviews between prisoners and their legal advisers may be within sight but not within hearing, either direct or indirect, of the police or institution staff. The allocation of untried prisoners shall be in conform-

ity with the provisions of **Clause 11**, paragraph 3.

93. Untried prisoners shall normally be lodged [during the night] in individual cells [except in cases where it is considered that there are advantages in sharing accommodation with other prisoners] [unless for medical or other sufficient reason it is [necessary] [desirable] for prisoners to be associated].

94. 1. Untried prisoners shall be allowed to wear their own clothing if it is clean and suitable.

2. Prisoners who do not avail themselves of this facility shall be supplied with suitable clothing.

3. If they have no suitable clothing of their own, untried prisoners shall be provided with civilian clothing in good condition in which to appear in court or on authorised outings.

4. In this **Clause** "clothing" includes footwear.

95. Untried prisoners shall, whenever possible, be offered the opportunity to work but shall not be required to work. Those who choose to work shall be paid as other prisoners. If educational or trade training is available, untried prisoners shall be encouraged to avail themselves of these opportunities.

96. Untried prisoners shall be allowed to procure at their own expense or at the expense of a third party such books, newspapers, writing materials and other means of occupation as are compatible with the interests of the administration of justice and the security and good order of this institution.

97. Untried prisoners may be visited and treated by their own doctor or dentist if there is reasonable ground for the application. Reasons should be given if the application is refused. Such costs as are incurred shall not be the responsibility of the prison administration.

Civil prisoners

98. In countries where the law permits imprisonment by order of a court under any non-criminal process, persons so imprisoned shall not be subjected to any greater restriction or severity than is necessary to ensure safe custody and good order. Their treatment shall not be less favourable than that of untried prisoners, with the reservation, however, that they may be required to work.

Foreign prisoners

99. 1. The following principles are designed to apply to foreign prisoners, that is to say to prisoners of different nationality who, on account of such factors as language, customs, cultural background or religion, may face specific problems. As far as prisoners awaiting trial or extradition are concerned, these principles should, however, be applied only to the extent that their implementation does not impair the purpose of the detention.

2. In implementing these principles, account

should be taken of the requirements of the prison administration, including prison security, and the availability of resources.

3. The principles should be applied so as to ensure that the treatment of foreign prisoners is conducive to their social resettlement. This might require adopting particular measures in relation to particular categories of foreign prisoners, taking into account such factors as nationality, language, religious precepts and customs, cultural background, length of sentence and liability to expulsion. Every reasonable effort should be made to ensure that the treatment of foreign prisoners does not lead to their being disadvantaged.

100. The allocation of a foreign prisoner to a prison establishment should not be effected on the grounds of nationality alone. If the allocation to a prison establishment is likely to alleviate a situation of isolation and to facilitate treatment, it may be effected according to specific needs, particularly with regard to communication with persons of the same nationality, language, religion or culture. This possibility should be envisaged in particular where the national penitentiary system takes account of the wishes of prisoners when allocating them to prison establishments.

101.1. Foreign prisoners should be informed without delay of their right to request contacts with their consular authorities, the possibilities of assistance which might be accorded by these authorities and any action concerning them which is to be taken by the competent authorities having regard to existing consular treaties. If a foreign prisoner wishes to receive assistance from a diplomatic or consular authority, including action for social resettlement in case of expulsion, the latter should be informed promptly.

2. Foreign prisoners should be informed without delay if there is any possibility of repatriation to their own countries by virtue of any existing international agreements such as, in particular, the Commonwealth Scheme for the Transfer of Convicted Offenders.

3. Consular authorities should be invited to consider the production of information leaflets for their detained nationals. These leaflets should indicate the location and telephone number of the nearest consulate and inform prisoners of the possibilities of assistance which may be granted by consulates, such as visits providing information as regards their defence, supplying literature and reading material, and suggesting possibilities of repatriation, particularly as regards transfer by virtue of existing international agreements. Such leaflets should be made available to prisoners at the earliest possible stage of their detention.

102.1. To alleviate a feeling of isolation, a foreign prisoner's communications with other persons of the same nationality, language, religion or culture should be facilitated, for example, by permitting them to work, spend their leisure time or take exercise together.

2. Every effort should be made to give foreign prisoners access to reading material in their language. To that end, prisons might seek the assistance of consular services and appropriate private organisations.

3. Where a foreign prisoner is likely to be able to remain in the country of detention and wishes to be assimilated into the culture of that country, the prison administration should assist to this end.

4. Foreign prisoners should, where practicable, have the same access as national prisoners to education and vocational training. In order that foreign prisoners may have access to courses designed to improve educational and professional qualifications, consideration should be given to the possibility of providing them with necessary special facilities.

5. Visits and other contacts with the outside community should be so arranged as to meet the foreign prisoner's special needs.

6. Ordinarily foreign prisoners should be eligible for prison leave and other authorised exits from prison according to the same principles as nationals. The assessment of the risk that a foreign prisoner may leave the country and escape punishment should always be made on the merits of the individual case.

103.1. Foreign prisoners should be informed promptly after reception into a prison, in a language which they understand, of the main features of prison routine, of available training and study facilities, and of possibilities, if any, for requesting the assistance of an interpreter. This information should be supplied in writing or, where this is not possible, orally or in some other manner comprehensible to the prisoner.

2. Foreign prisoners, who have no command of the language of the country in which they are detained, should be provided with translation or interpretation concerning sentence, any right of appeal, and any judicial decision taken in the course of their detention.

3. To enable foreign prisoners to learn the language spoken in the prison, appropriate opportunities for language training should be provided for them.

104.1. The religious beliefs and customs of foreign prisoners should be respected. So far as practica-

with them.

2. Account should also be taken of problems which might arise from differences in culture.

105. Foreign prisoners, who in practice do not enjoy all the facilities accorded to nationals and whose conditions of detention are generally more difficult, should be treated in such a manner as to counter-balance, so far as may be possible, these disadvantages.

106.1. Prison administrators and community agencies working in the field of aid and resettlement of prisoners should, in collaboration, pay particular attention to foreign prisoners and their specific problems.

2. Prison administrators should ensure that information about assistance which may be offered to foreign prisoners by community agencies is easily accessible to them.

3. Contacts of foreign prisoners with community agencies should be facilitated.

4. With a view to according adequate assistance to foreign prisoners, prison administrators should grant community agencies all necessary opportunities for visits and correspondence, provided that the prisoner consents to these contacts. Where only a limited number of visits can be made, consideration should be given in appropriate cases to extending visiting times and to making restrictions on sending or receiving letters more flexible.

5. The address of the national contact bureau as well as that of any diplomatic or consular authority should be communicated by the director to any foreign prisoner at the time of reception into the prison.

107.1. Training for prison officers and other categories of staff to support their work with foreign prisoners should be encouraged and incorporated in the normal training programmes. In general, such training should seek to improve understanding of the difficulties and cultural backgrounds of foreign prisoners so as to prevent prejudiced attitudes from arising.

2. Consideration should be given to having certain staff available for more intensive work with foreign prisoners and enhancing their ability to do so through the provision of more specialised training focusing, for instance, upon the learning of a language or particular difficulties occurring in relation to particular groups of foreign prisoners.

Insane and [mentally abnormal prisoners]

108.1. Persons who are found to be insane should not be detained in prisons and arrangements shall be made to remove them to appropriate establishments for the mentally ill as soon as possible.

2. Specialised institutions or sections under medical management should be available for the observation and treatment of prisoners suffering gravely from other mental disease or abnormality.

3. The medical or psychiatric service of the penal institutions shall provide for the psychiatric treatment of all prisoners who are in need of such treatment.

4. Action should be taken, by arrangement with the appropriate community agencies, to ensure where necessary the continuation of psychiatric treatment after release and the provision of social psychiatric after-care.